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United States Department of Agriculture.

PROTECTION AND IMPORTATION OF BIRDS UNDER ACT OF CONGRESS APPROVED MAY 25, 1900.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., July 13, 1900.

The Act of May 25, 1900, commonly known as the Lacey Act, (1) places the preservation, distribution, introduction, and restoration of game and other birds under the Department of Agriculture; (2) regulates the importation of foreign birds and animals, prohibiting absolutely the introduction of certain injurious species; and (3) prohibits interstate traffic in birds or game killed in violation of State laws. The Act reads as follows:

An Act to enlarge the powers of the Department of Agriculture, prohibit the transportation by interstate commerce of game killed in violation of local laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the duties and powers of the Department of Agriculture are hereby enlarged so as to include the preservation, distribution, introduction, and restoration of game birds and other wild birds. The Secretary of Agriculture is hereby authorized to adopt such measures as may be necessary to carry out the purposes of this Act and to purchase such game birds and other wild birds as may be required therefor, subject, however, to the laws of the various States and Territories. The object and purpose of this Act is to aid in the restoration of such birds in those parts of the United States adapted thereto where the same have become scarce or extinct, and also to regulate the introduction of American or foreign birds or animals in localities where they have not heretofore existed.

The Secretary of Agriculture shall from time to time collect and publish useful information as to the propagation, uses, and preservation of such birds.

And the Secretary of Agriculture shall make and publish all needful rules and regulations for carrying out the purposes of this Act, and shall expend for said purposes such sums as Congress may appropriate therefor.

SEC. 2. That it shall be unlawful for any person or persons to import into the United States any foreign wild animal or bird except under special permit from the United States Department of Agriculture: *Provided*, That nothing in this section shall restrict the importation of natural history specimens for museums or scientific collections, or the importation of certain cage birds, such as domesticated canaries, parrots, or such other species as the Secretary of Agriculture may designate.

The importation of the mongoose, the so-called "flying foxes" or fruit bats, the English sparrow, the starling, or such other birds or animals as the Secretary of Agriculture may from time to time declare injurious to the interest of agriculture or horticulture is hereby prohibited, and such species upon arrival at any of the ports of the United States shall be destroyed or returned at the expense of the owner. The Secretary of the Treasury is hereby authorized to make regulations for carrying into effect the provisions of this section.

SEC. 3. That it shall be unlawful for any person or persons to deliver to any common carrier, or for any common carrier to transport from one State or Territory to another State or Territory, or from the District of Columbia or Alaska to any State or Territory, or from any State or Territory to the District of Columbia or Alaska, any foreign animals or birds the importation of which is prohibited, or the dead bodies or parts thereof of any wild animals or birds, where such animals or birds have been killed in violation of the laws of the State, Territory, or District in which the same were killed: *Provided*, That

nothing herein shall prevent the transportation of any dead birds or animals killed during the season when the same may be lawfully captured, and the export of which is not prohibited by law in the State, Territory, or District in which the same are killed.

SEC. 4. That all packages containing such dead animals, birds, or parts thereof, when shipped by interstate commerce, as provided in section one of this Act, shall be plainly and clearly marked, so that the name and address of the shipper and the nature of the contents may be readily ascertained on inspection of the outside of such packages. For each evasion or violation of this Act the shipper shall, upon conviction, pay a fine of not exceeding two hundred dollars; and the consignee knowingly receiving such articles so shipped and transported in violation of this Act shall, upon conviction, pay a fine of not exceeding two hundred dollars; and the carrier knowingly carrying or transporting the same shall, upon conviction, pay a fine of not exceeding two hundred dollars.

SEC. 5. That all dead bodies, or parts thereof, of any foreign game animals, or game or song birds, the importation of which is prohibited, or the dead bodies, or parts thereof, of any wild game animals, or game or song birds transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in such State or Territory be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such animals and birds had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise. This Act shall not prevent the importation, transportation, or sale of birds or bird plumage manufactured from the feathers of barnyard fowl.

Approved, May 25, 1900.

The object of placing this work in charge of an Executive Department of the Federal Government was merely to supplement and not to hamper or replace the work hitherto done by State commissions and organizations; in other words, to coordinate and direct individual efforts, and thus insure more uniform and more satisfactory results than could otherwise be obtained. Greater uniformity in State legislation and better enforcement of existing laws can be secured only by the most complete cooperation between the various forces now at work in the cause of bird protection.

PROPAGATION AND DISTRIBUTION OF GAME BIRDS.

No provision for distribution of birds.—The Act authorizes, but does not provide an appropriation for, the purchase and distribution of birds. The Department of Agriculture, therefore, has no quail, pheasants, or other game birds for distribution.

The Department issues no permits for shipping birds *from one State to another*. In some States, as in California, the Board of Fish and Game Commissioners is authorized to issue permits for shipping birds for propagating purposes, and a few States, such as Michigan and New Jersey, make exceptions in their game laws in the case of birds captured for breeding purposes; but when a State forbids the exportation of birds without exception, interstate commerce in birds from that State is in violation of the Lacey Act, whether the birds are captured during open seasons or whether they are intended for propagation or not.

IMPORTATION OF FOREIGN ANIMALS AND BIRDS.

Persons contemplating the importation of live animals or birds from abroad must obtain a special permit from the Secretary of Agricul-

ure, as required by section 2 of the Act. The law is mandatory and makes no exceptions besides those noted below. It applies to single mammals, birds, or reptiles, kept in cages as pets, as well as to large consignments intended for propagation in captivity or otherwise. But in order to avoid unnecessary hardship and annoyance the list of species which may be admitted without permits will be extended at an early date.

Applications for permits.—Importers are advised to make application for permits in advance, in order to avoid annoyance and delay when shipments reach the custom-house. Application blanks may be obtained from the Department. Requests for permits may be made in the following form:

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To the SECRETARY OF AGRICULTURE,
Washington, D. C.

SIR: I respectfully request that a permit be issued for the importation of ----

which will probably arrive at the port of -----
from -----, on or about -----, 190 ,
destined for ----- These animals or birds will be
[state whether the animals or birds are to be liberated or kept in captivity
and whether imported for propagation, exhibition, or other purposes].

Very respectfully, -----

Applications may also be made by telegraph, in which case the message should contain (1) the number and species of birds and animals for which a permit is desired, (2) the port of entry, (3) the country from which imported, and (4) the owner's name.

Exceptions.—Permits are *not* required for domesticated birds such as chickens, ducks, geese, guinea fowl, peafowl, pigeons, or canaries; for parrots (including cockatoos, lovebirds, macaws, and parakeets); or for natural history specimens for museums or scientific collections. Permits must be obtained for all wild species of pigeons and ducks, and when domesticated as well as wild birds are included in the same shipment all the species should be mentioned in the letter of application, in order to avoid any misunderstanding as to the term "domesticated."

Ruminants.—In the case of ruminants (including deer, elk, moose, antelopes, and also camels and llamas), permits will be issued, as heretofore, in the form prescribed for importation of domesticated animals. Such animals will be subject to inspection and quarantine, as required under Order No. 56 of the Bureau of Animal Industry, dated December 28, 1899, entitled "Regulations for the inspection and quarantine of horses, neat cattle, sheep, and other ruminants, and swine imported into the United States."

Species prohibited.—The introduction of the English or European house sparrow, the starling, the fruit bat or flying fox, and the mongoose, known also as the ichneumon or Pharaoh's rat, is absolutely prohibited, and permits for their importation will not be issued under any circumstances. Importers are cautioned against placing any of these species in cages with other birds or animals. Such action will render the shipment liable to detention at the custom-house, as the species named must be exported or destroyed at the expense of the owner or agent.

Permits.—Permits will be issued free of charge upon receipt and

approval of applications. They will be made out in duplicate, one copy to be attached to the bill of lading, and the other forwarded by mail or delivered to the collector of customs at the port of entry for use in case the original is lost. Permits will be made out in the name of the owner or agent, will be accepted only at the port and for the shipment named therein, and will be void 30 days after the date set for the arrival of the shipment at the port of entry.

Customs regulations.—Under the regulations prescribed by the Secretary of the Treasury under date of June 28, 1900 (Department Circular No. 101, Division of Customs), persons who have not already secured permits will be allowed 10 days in which to secure them after the arrival of the shipment at the port of entry. In such cases an examination will be made at once; duties, if any, estimated and deposited; and a stipulation filed with the collector within 24 hours after arrival to produce the necessary permit within 10 days. Upon filing a voluntary bond with approved sureties in double the invoice value (but not less than \$10), the importer may secure the delivery of the property upon condition that, in the event of failure to secure the necessary permit, it shall be redelivered to the collector within 10 days after date of entry. Property remaining in the custody of the officers of customs pending issue of the permit will be retained wholly at the expense of the importer.

In case of doubt as to whether animals or birds belong to prohibited species, or suspicion on the part of the collector that such species are being entered under other names, the shipment will be held at the risk and expense of the importer pending the receipt of special instructions from the Department of Agriculture, or until examined at the expense of the importer by a special inspector designated by the Secretary of Agriculture and the identity established to the satisfaction of the collector.

Special inspectors.—For the convenience of importers special inspectors will be designated at the ports of New York, Boston, Philadelphia, Baltimore, Washington, New Orleans, and San Francisco, who will examine shipments at the request of the owner or agent or who may be consulted in case of misunderstanding between owner and officers of the customs. The inspector will be entitled to a fee for such service (in ordinary cases not exceeding \$5 for each shipment), which shall be paid by the importer before delivery of the property. These inspectors are designated merely for the convenience of importers, and owners or agents are under no obligations to employ them. But the identity of species must be established to the satisfaction of collectors and in case of refusal or neglect on the part of the owner or agent, or failure to obtain the permit within the specified time, delivery of the property will be refused and immediate exportation required. As representatives of this Department, special inspectors will be authorized to settle all questions involving the identity of species, as to whether permits are necessary, or whether species are prohibited from introduction; and their decisions shall be accepted as final by officers of the customs.

TRANSPORTATION OF PROHIBITED SPECIES.

Attention is called to the clause in section 3 which makes it unlawful for any person or persons to deliver to any common car-

rier or for any common carrier to transport any foreign animals or birds the importation of which is prohibited by section 2. Of the species prohibited, the mongoose and flying fox have not yet gained a foothold in the United States. The European starling (*Sturnus vulgaris*) has been introduced at several points and is now present in the lower Hudson River Valley, N. Y.; at Pittsburg, Pa.; and at Portland, Oreg. The English sparrow (*Passer domesticus*) has spread to most of the States and Territories, but is present at comparatively few points in Idaho, Montana, New Mexico, Oregon, Washington, and Wyoming, and apparently has not yet reached Arizona or Nevada. The deliberate shipment of starlings or English sparrows from one State to another is now a violation of law and renders the shipper and carrier liable to the penalties provided in section 4. It may be possible, therefore, to prevent the spread of the English sparrow to States where the bird is now absent, while those States in which it has gained only a slight foothold have an opportunity to rid themselves of the pest by adopting vigorous measures for the destruction of the few sparrows within their limits.

INTERSTATE TRAFFIC IN ANIMALS OR BIRDS KILLED OR SHIPPED IN VIOLATION OF STATE LAWS.

The attention of sportsmen, commission merchants, shippers, and express agents, is especially called to sections 3, 4, and 5, which make it unlawful to ship from one State to another animals or birds which have been killed or captured in violation of local laws, and which require all packages containing animals or birds to be plainly marked so that the name and address of the shipper and the nature of the contents may be ascertained by inspection of the outside of such packages. Common carriers are cautioned to notify their agents to insist that all packages supposed to contain game or other animals or birds must be marked with the shipper's name and the contents. Shipment in any form that tends to conceal or obscure the nature of the contents or the shipper's name and address is plainly an evasion of the Act, and the penalty applies to evasions as well as to violations of the law. The Act also prohibits interstate commerce in game though killed in open seasons, if the law of the State in which such game is killed prohibits its export.

In referring to these sections, the House Committee on Interstate Commerce reported as follows: "The killing or carrying of game within the limits of a State is a matter wholly within the jurisdiction of the State, but when the fruits of the violation of State law are carried beyond the State, the nation alone has the power to forbid the transit and to punish those engaged in the traffic. This bill will give the game wardens the very power that they now lack and which will be the most effective for the purpose of breaking up this commerce. * * * In some of the States the sale of certain game is forbidden at all seasons without regard to the place where the same was killed. The purpose of these laws is to prevent the sale of game shipped into the State from being used as a cloak for the sale of game killed within the State in violation of local laws." Section 5 of the Act is intended to meet this difficulty by subjecting imported animals, birds, or game, whether introduced in original packages or otherwise, to the laws of the State in which imported.

PRESERVATION AND IMPORTATION OF BIRDS IN CHARGE OF THE
BIOLOGICAL SURVEY.

The Division of Biological Survey is hereby placed in charge of all matters relating to the preservation and importation of animals or birds under this Act, and until further notice the Assistant Chief of that Division will have immediate charge of the issue of permits for the importation of animals and birds from foreign countries. All inquiries regarding bird protection and all requests for publications on the uses or preservation of birds should be addressed to the Chief of the Biological Survey.

James Wilson

Secretary.

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